BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking Regarding Revisions to the California Universal Telephone Service (LifeLine) Program.	Rulemaking 11-03-013 (Filed March 24, 2011)

REPLY COMMENTS
OF THE OFFICE OF RATEPAYER ADVOCATES ON
ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S RULING

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I. INTRODUCTION

In accordance with the schedule outlined in the E-Mail Ruling Granting Extension of Time to File Comments and Reply Comments, issued in this proceeding on September 26, 2016, (Email Ruling) the Office of Ratepayer Advocates (ORA) hereby responds to the opening comments of other parties. ORA appreciates the Commission's efforts to examine the LifeLine program, and its recommendations are intended to minimize customer disruption and confusion, while ensuring fiscal prudency.

II. SUMMARY OF ORA REPLY COMMENTS

- If the Commission decides to extend the Service Connection Charge (SCC) reimbursement for wireless LifeLine beyond December 2016, it should lower the reimbursement amount to no more than $4 and limit the frequency of such reimbursement to twice annually per customer.
- California LifeLine should maintain its renewal process at least until the FCC's National Verifier is implemented for California, and the Commission should consider aligning California LifeLine's renewal process with the FCC's.
- California income and program eligibility rules should be aligned with the FCC's for new customers only on or shortly after December 1, 2016. Existing customers as of December 1, 2016 who are impacted by this change should be grandfathered for at least two years.
- California should make up the lost FCC subsidy for impacted customers for the transition period.
- Broadband internet access service (BIAS) should not be included as part of the minimum service requirements at this time. This should be considered in another proceeding after enough time has passed to assess the FCC's efforts to increase BIAS adoption among low income customers.

III. DISCUSSION

A. If the Commission extends the Service Connection Charge (SCC) reimbursement for wireless providers beyond December 2016, then it should lower the amount to no more than $4 and limit the frequency of such reimbursement to twice annually per customer.

The California LifeLine Coalition recommends extending the SCC reimbursement for wireless providers beyond December 2016 for a minimum of two years. It further recommends extending the SCC reimbursement to re-enrollments.[1]

ORA maintains its recommendation that the SCC reimbursement for wireless providers be allowed to expire as scheduled in December 2016.[2] However, if the Commission chooses to maintain this subsidy in some form, it should set the reimbursement amount to reflect the true cost of service activation and limit the frequency of the reimbursement to twice annually per customer. On September 23, 2016, ORA issued a data request to wireless LifeLine providers. One of the questions ORA asked was the cost to activate a LifeLine customer in California versus other states and a breakdown of the costs. ORA received responses on October 12, 2016. When line items, such as, for example, the cost of the wireless device and sales and marketing costs (including sales commissions) are removed from the providers' calculations, the service activation cost is in the range of $1 to $4 per customer.

By way of comparison, the SCC reimbursement amount could be set at fifty percent of the average retail price for service activation charged by the four largest wireless carriers in the country (AT&T Wireless, Verizon Wireless, Sprint, and T-Mobile) for their retail pre-paid wireless service. This framework would follow the

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[1] *See* California LifeLine Coalition Comments, p. 2 ("First, the Commission should extend the non-recurring cost reimbursement beyond December 2016 for a minimum of two years to help ensure ongoing success of the wireless LifeLine program…Second, the Commission should extend the non-recurring cost reimbursements to re-enrollments so that customers who have discontinued service will not be disadvantaged when they need to resume LifeLine service.")

[2] See ORA Comments filed on October 11, 2016, pp. 4-5, Section III.

general principle of setting reimbursement levels based on a portion of the retail price charged for voice service. Since many of the LifeLine wireless providers actually have minimal or no retail customers, using their retail price for service activation would not be appropriate for purposes of this calculation.

Table 1 below provides an illustration of how the SCC reimbursement is derived based on the retail service activation prices of these four largest wireless carriers. In this illustration, the average service activation price is $7.50 and the SCC reimbursement level would be set at $3.75 (50% * $7.50). The resulting SCC reimbursement amount of $3.75 using this approach is within the $1 to $4 range for service activation based on a review of the providers' responses to ORA's data request.

Table 1[3]

Wireless Provider	**Service Activation Charge**
AT&T Wireless	$0
Verizon Wireless	$5
Sprint	$0
T-Mobile	$25
Average	$7.50
SCC Reimbursement	**$3.75**

Therefore, if the Commission extends the SCC reimbursement for wireless LifeLine beyond December 2016, it should reduce the reimbursement amount to no more than $4 per customer and limit the frequency of the reimbursement to twice annually per customer.

The wireless providers request a subsidy for wireless devices by urging the Commission to maintain the current $39 SCC reimbursement. As ORA stated in its opening comments, if the Commission sees some merit in subsidizing wireless devices, it

[3] The Service Activation Charge Data in this Table was collected on 28 September 2016 by calling the customer service representatives of each Prepaid Service Provider. It is normal business practice for these providers to waive their service activation charge.

should initiate a new proceeding (or a new phase to this proceeding) to assess the legal, financial, and operational ramifications of subsidizing devices (including but not limited to wireless handsets) and other customer premises equipment.[4] A separate proceeding will allow the Commission to develop and rely on a complete record to guide its decision. The SCC reimbursement should be for service activation only. It is not appropriate to maintain an artificially high SCC reimbursement to facilitate a non-transparent subsidy for wireless handsets.

B. California LifeLine should maintain its renewal process at least until FCC's National Verifier is implemented for California.

Cox Communications, Small LECs and AT&T suggest that the California LifeLine program renewal process should align with the FCC's rules governing re-certification. The FCC's rules provide that a subscriber must be given notice at least 60 days prior the end of her current term. The California LifeLine Coalition and Joint Consumers agree with the Ruling's tentative conclusion that California can maintain its renewal process at least until the implementation of the National Verifier in California. TracFone believes it is in the best interest of LifeLine customers and the program if carriers retain the right to perform their own renewals consistent with current practice.[5]

ORA agrees with the recommendations that: (a) the California LifeLine Administrator should maintain its control over the annual recertification process until the launch of the National Verifier in California, as opposed to turning the process over to Universal Service Administrative Company (USAC); and (b) the Commission should consider aligning LifeLine's renewal process with the FCC's. In its opening comments, ORA supported the Communications Division's 45-day renewal process, but based on comments from other stakeholders ORA sees merit in aligning with FCC's 60-day

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[4] *See* ORA Opening Comments filed on October 11, 2016, p. 6, Section III.A.2.

[5] *See* TracFone Opening Comments filed on October 11, 2016, p. 14, Section C.16.

renewal/ recertification process. This would align with ORA's overall recommendation to gradually move towards alignment with FCC rules.

There are some procedural recommendations from the parties regarding how the recertification process can be streamlined. The Commission should require the California LifeLine Working Group to assess the renewal process every six months under the aegis of Communications Division to monitor the process and progress.

C. California income and program eligibility rules should be aligned with the FCC's for new customers only on or shortly after December 1, 2016. Existing customers as of December 1, 2016 who are impacted by this change should be grandfathered for at least two years. California should make up the lost FCC subsidy for impacted customers for the transition period.

AT&T,[6] TracFone,[7] Small LECs,[8] Consolidated Communications and Enterprise,[9] and California LifeLine Coalition,[10] recommend aligning or tracking the FCC's income and program eligibility criterion. There certainly is merit in aligning state and federal income and program eligibility requirements because it simplifies administration, customer education, sales and marketing efforts, and overall, helps minimize customer confusion. However, the critical issue is whether this alignment should occur on an

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[6] *See* AT&T Comments, p. 8 ("For all of these reasons, the Commission should modify its Lifeline rules to mirror exactly the streamlined federal Lifeline eligibility criteria, to be effective on the same date as the streamlined federal eligibility criteria.")

[7] *See* TracFone Wireless, INC. Comments, p. 7 ("… California LifeLine should apply the same eligibility criteria as the federal program and perform only a single eligibility determination.")

[8] *See* the Small LECs Comments, p. 2 ("Applying this principle to the federal reforms, the Small LECs believe that the Commission should make its program and income eligibility standards consistent with federal requirements.")

[9] *See* Consolidated Communications of California Company and Consolidated Communications Enterprise Services FKA Surewest Televideo Comments, p. 2 ("First, the Commission should change its program and income eligibility standards so that they are identical to the federal requirements.")

[10] *See* California LifeLine Coalition Comments, p. 11, "In summary, the Commission is required to implement the federal rule changes regarding Lifeline eligibility programs and should either mirror the federal eligibility programs for the California LifeLine program or make up the difference in lost federal subsidy to avoid reducing services for or increasing costs on low-income Californians."

immediate, flash-cut basis, or gradually over time. An immediate transition will likely result in significant disruption and displacement of customers from the LifeLine program, particularly at a time when details of the FCC's implementation have not been fully worked out. A gradual transition over a longer period is preferable because it will allow the Commission to better care for the needs of customers impacted by changes in eligibility requirements.

ORA supports Joint Consumers' opening comments to alleviate any undue pressure on consumers. They suggest the Commission maintain program participation and prevent customer confusion by providing supplemental funding for customers who are no longer eligible for the federal subsidy at least until the Commission has had time to conduct additional analysis and take more detailed comments on the impacts of developing a more robust state only program.[11] To this end, California's income eligibility requirements should mirror the FCC's on or shortly after December 1, 2016, for new subscribers only. However, it is unclear at this time if FCC will grant the limited-time waiver in the petition filed by United States Telecom Association (USTelecom).[12] Therefore, ORA recommends that existing customers as of December 1, 2016 with incomes between the 135%-150% bracket of the Federal Poverty Level (FPL) who are unable to recertify under an eligible program should be grandfathered for at least two years at the time of their renewal. California LifeLine should cover the lost federal subsidy for this two-year period.

It became apparent during the October 14, 2016 workshop that the operational, administrative, and customer education challenges of running two differing lists of public assistance programs (program eligibility list) to qualify customers for the California and/or FCC Lifeline program are significant. This will likely result in poor execution

[11] *See* Joint Consumers Opening Comments filed on October 11, 2016, p. 2.

[12] *See* Petition of USTelecom for Waiver of Lifeline Eligibility Rules, WC Docket No. 11-42 et al. (filed Oct. 3, 2016).

negatively impacting customers and overall program participation levels. Therefore, for new customers only, California's program eligibility list should mirror the FCC's on or shortly after December 1, 2016. Existing customers as of December 1, 2016 who are unable to recertify under the new program eligibility list should be grandfathered for at least two years. California LifeLine should cover the lost federal subsidy for this two-year period. Customers who fail to recertify during their annual renewal date will be treated as new customers when they later re-enroll in LifeLine.

Based on the August 31, 2016 data shared by the Communications Division (CD), 81,395 existing customers are impacted by the FCC's change in income and program eligibility rules. These customers will lose their federal subsidy of $9.25 per month. If California LifeLine replaces this lost amount for two years, it would cost the program up to $18 million. This assumes all of these customers are unable to qualify under the list of public assistance programs in the FCC's program eligibility list. It should be noted that the customer's Lifeline provider must be an ETC and participate in the FCC's program in order to receive the supplemental support of $9.25 per month from California LifeLine during this two-year transition period. This increased budget commitment of $18 million will be offset if the Commission adopts ORA's recommendation to eliminate or reduce the SCC reimbursement to wireless providers.

D. BIAS should not be included as part of the minimum service requirements at this time. This should be considered in another proceeding after enough time has passed to assess the FCC's efforts to increase BIAS adoption among low income customers.

During the October 14, 2016 workshop several parties suggested that the Commission should consider moving towards broadband services. BIAS should not be included as part of the California LifeLine minimum service requirements at this time. This should be explored in another proceeding after December 2021, when enough time has passed to assess the FCC's efforts in increasing BIAS penetration among low income customers. If the FCC's efforts are not sufficient, then the Commission can determine measures to supplement the FCC's efforts.

It is important to note that the monies that support the California LifeLine (and for the matter the FCC's Lifeline) program are derived from surcharges applied to voice services only. States are not permitted to apply surcharges on BIAS. Only the federal government can do that. Therefore, the FCC is in a better position than states to increase funding for BIAS and it will likely do so if its efforts to increase BIAS penetration among low income customers fall short of what is needed. As ORA conveyed in its opening comments, maintaining public support for California LifeLine, along with other public purpose programs is critical. Extra care should be taken to ensure the surcharge levels applied to voice services will not reach a level that will cause public support to erode.

IV. CONCLUSION

ORA appreciates this opportunity to provide comments in the Commission's examination of the California LifeLine Program to further the Commission's universal service goals and to ensure that ratepayer funds are prudently spent.

Respectfully submitted,

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